

## SENATE BILL No. 335

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-18; IC 10-11-2-21.5; IC 16-18-2-179; IC 16-40-6; IC 22-5; IC 35-44-5.

**Synopsis:** Illegal alien matters. Requires the superintendent of the state police department (superintendent) to: (1) negotiate terms of a memorandum of understanding (memorandum) concerning a pilot project for the enforcement of federal immigration and customs laws; and (2) designate appropriate police employees to be trained under the memorandum. Requires: (1) the superintendent and governor, unless otherwise required by the applicable federal agency, to sign the memorandum on behalf of the state; and (2) the state police department to apply for federal funding, as available, for the costs associated with training the police employees. Provides that a police employee certified as trained may enforce the federal immigration and customs laws. Prohibits a person from knowingly employing an unauthorized alien. Requires the attorney general to: (1) investigate a complaint that an employer knowingly employed an unauthorized alien; (2) verify the work authorization of the alleged unauthorized alien with the federal government; (3) notify United States Immigration and Customs Enforcement, local law enforcement agencies, and the appropriate prosecuting attorney; and (4) maintain certain records of violation orders. Requires prosecuting attorneys to file actions against employers for knowingly employing unauthorized aliens after December 31, 2008. Requires a court to: (1) hold a hearing and make a determination of the action on an expedited basis; (2) if a person knowingly employs an unauthorized alien, order the employer to terminate the employment of

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**Effective:** July 1, 2008; January 1, 2009.

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**Delph, Boots, Kruse, Young R  
Michael, Waltz, Steele, Waterman**

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January 10, 2008, read first time and referred to Committee on Pensions and Labor.

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unauthorized aliens, order the employer to file a signed affidavit, and place the employer on probation for three years; (3) order agencies to suspend all licenses held by the employer for the operation of the business location if the employer fails to file a sworn affidavit; (4) for a second violation during the probationary period, order agencies to revoke all licenses held by the employer for the operation of the business location; and (5) send copies of orders to the attorney general. Provides that a court may: (1) suspend an employer's licenses if an employer knowingly employs an unauthorized alien; and (2) consider only the federal government's verification or status information in determining whether an individual is an unauthorized alien. Establishes: (1) a rebuttable presumption that an employer did not knowingly employ an unauthorized alien if the employer verified the employment authorization of an individual through the federal pilot program; and (2) an affirmative defense if the employer complied in good faith with the federal employment verification requirements. Prohibits a governmental body from enacting an ordinance, resolution, rule, or policy that prohibits or limits another governmental body from sending, receiving, maintaining, or exchanging information on the citizenship or immigration status of an individual. Allows a person to bring an action to compel a governmental body to comply with the prohibition. Requires: (1) hospitals to provide information to the state department of health on the total cost of health care services for individuals who are not citizens or qualified aliens; and (2) the state department of health to compile the information and provide an annual report to the general assembly. Makes it a Class C misdemeanor to knowingly file a false or frivolous allegation with the attorney general. Prohibits a state agency or political subdivision from entering into or renewing a public contract for services with a contractor if the state agency or political subdivision knows that the contractor employs or contracts with unauthorized aliens. Provides that: (1) a state agency or political subdivision may terminate a public contract for services if the contractor providing the services employs or contracts with unauthorized aliens unless the state or political subdivision determines that terminating the contract would be detrimental to the public interest or public property; and (2) if a public contract for services is terminated, a contractor is liable for actual damages. Allows a contractor of a public contract for services to terminate a contract with a subcontractor if the subcontractor employs or contracts with unauthorized aliens. Makes it a: (1) Class A misdemeanor to transport or move; and (2) Class A misdemeanor to conceal, harbor, or shield from detection; an alien knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law. Makes these offenses a Class D felony (Class C felony for subsequent offenses): (1) for a subsequent offense; (2) if the offense involves more than five aliens; or (3) if the offense was committed for the purpose of commercial advantage or private financial gain.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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## SENATE BILL No. 335

A BILL FOR AN ACT to amend the Indiana Code concerning immigration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2008]:

4 **Chapter 18. Citizenship and Immigration Status Information**  
5 **Sec. 1. As used in this chapter, "governmental body" has the**  
6 **meaning set forth in IC 5-22-2-13.**

7 **Sec. 2. A governmental body may not enact an ordinance, a**  
8 **resolution, a rule, or a policy that prohibits or in any way restricts**  
9 **another governmental body, including a law enforcement officer**  
10 **(as defined under IC 5-2-1-2), a state or local official, or a state or**  
11 **local government employee, from taking the following actions with**  
12 **regard to information of the citizenship or immigration status,**  
13 **lawful or unlawful, of an individual:**

- 14 (1) **Communicating or cooperating with federal officials.**  
15 (2) **Sending to or receiving information from the United States**



Department of Homeland Security.

(3) Maintaining information.

(4) Exchanging information with another federal, state, or local government entity.

Sec. 3. If a governmental body violates this chapter, a person lawfully domiciled in Indiana may bring an action to compel the governmental body to comply with this chapter.

SECTION 2. IC 10-11-2-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21.5. (a) As used in this section, "law enforcement officer" means a:

(1) police employee;

(2) county sheriff;

(3) county police officer;

(4) county police reserve officer;

(5) city police officer;

(6) city police reserve officer;

(7) town marshal;

(8) deputy town marshal; or

(9) member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(b) The superintendent shall negotiate the terms of a memorandum of understanding between the state and the United States Department of Justice or the United States Department of Homeland Security concerning a pilot project for the enforcement of federal immigration and customs laws in Indiana.

(c) The memorandum of understanding described in subsection (b) must be signed on behalf of the state by the superintendent and governor, unless otherwise required by the United States Department of Justice or the United States Department of Homeland Security.

(d) The superintendent shall designate appropriate police employees to be trained under the memorandum of understanding described in subsection (b).

(e) The department shall apply for federal funding, as available, for the costs associated with training police employees under the memorandum of understanding described in subsection (b).

(f) A police employee certified as trained in accordance with the memorandum of understanding described in subsection (b) may enforce federal immigration and customs laws while performing within the scope of the police employee's duties.

(g) The superintendent shall coordinate efforts, as needed, with

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1 **the executive director of the department of homeland security to**  
 2 **address issues of national security in implementing this section.**

3 SECTION 3. IC 16-18-2-179, AS AMENDED BY P.L.99-2007,  
 4 SECTION 154, IS AMENDED TO READ AS FOLLOWS  
 5 [EFFECTIVE JULY 1, 2008]: Sec. 179. (a) "Hospital", except as  
 6 provided in subsections (b) through (g), means a hospital that is  
 7 licensed under IC 16-21-2.

8 (b) "Hospital", for purposes of IC 16-21, means an institution, a  
 9 place, a building, or an agency that holds out to the general public that  
 10 it is operated for hospital purposes and that it provides care,  
 11 accommodations, facilities, and equipment, in connection with the  
 12 services of a physician, to individuals who may need medical or  
 13 surgical services. The term does not include the following:

14 (1) Freestanding health facilities.

15 (2) Hospitals or institutions specifically intended to diagnose,  
 16 care, and treat the following:

17 (A) Individuals with a mental illness (as defined in  
 18 IC 12-7-2-117.6).

19 (B) Individuals with developmental disabilities (as defined in  
 20 IC 12-7-2-61).

21 (3) Offices of physicians where patients are not regularly kept as  
 22 bed patients.

23 (4) Convalescent homes, boarding homes, or homes for the aged.

24 (c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth  
 25 in IC 16-22-8-5.

26 (d) "Hospital", for purposes of IC 16-23.5, has the meaning set forth  
 27 in IC 16-23.5-1-9.

28 (e) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24,  
 29 means an institution or a facility for the treatment of individuals with  
 30 tuberculosis.

31 (f) "Hospital", for purposes of IC 16-34, means a hospital (as  
 32 defined in subsection (b)) that:

33 (1) is required to be licensed under IC 16-21-2; or

34 (2) is operated by an agency of the United States.

35 **(g) "Hospital", for purposes of IC 16-40-6, has the meaning set**  
 36 **forth in IC 16-40-6-1.**

37 ~~(g)~~ **(h)** "Hospital", for purposes of IC 16-41-12, has the meaning set  
 38 forth in IC 16-41-12-6.

39 SECTION 4. IC 16-40-6 IS ADDED TO THE INDIANA CODE AS  
 40 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 41 1, 2008]:

42 **Chapter 6. Reporting on Certain Health Care Service Costs**

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1       **Sec. 1. As used in this chapter, "hospital" includes a:**

- 2           (1) hospital licensed under IC 16-21;  
3           (2) county hospital organized under IC 16-22; or  
4           (3) municipal hospital organized under IC 16-23.

5       **Sec. 2. A hospital shall provide a quarterly report to the state**  
6 **department that includes the following:**

- 7           (1) The number of individuals that the hospital provides  
8           health care services to who are not:  
9               (A) citizens of the United States; or  
10              (B) qualified aliens, as defined in 8 U.S.C. 1641(b).  
11           (2) The total cost of the health care services for the individuals  
12           described under subdivision (1).

13       **Sec. 3. The state department shall:**

- 14           (1) compile the information the state department receives  
15           under section 2 of this chapter; and  
16           (2) provide the information under subdivision (1) in an annual  
17           report to the to the general assembly in an electronic format  
18           under IC 5-14-6.

19       SECTION 5. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE  
20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
21 JANUARY 1, 2009]:

22       **Chapter 1.5. Employment of Unauthorized Aliens**

23       **Sec. 1. This chapter does not apply to a public utility (as defined**  
24 **in IC 8-1-2-1(a)) that is subject to regulation by the Indiana utility**  
25 **regulatory commission under IC 8-1-2.**

26       **Sec. 2. As used in this chapter, "agency" means any state or**  
27 **local administration, agency, authority, board, bureau,**  
28 **commission, committee, council, department, division, institution,**  
29 **office, service, or other similar body of government created or**  
30 **established by law that issues a license for purposes of operating a**  
31 **business in Indiana.**

32       **Sec. 3. As used in this chapter, "employee" means an individual**  
33 **who performs employment services for an employer.**

34       **Sec. 4. (a) As used in this chapter, "employer" means a person**  
35 **that:**

- 36           (1) transacts business in Indiana;  
37           (2) has a license issued by an agency; and  
38           (3) employs one (1) or more individuals who perform  
39           employment services in Indiana.  
40           (b) The term includes the state, a political subdivision (as  
41           defined in IC 3-5-2-38) of the state, and a self-employed person.

42       **Sec. 5. (a) As used in this chapter, "license" means any agency**

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1 permit, certificate, approval, registration, charter, or similar  
2 authorization that is:

3 (1) required by law; and

4 (2) issued by an agency;

5 for purposes of operating a business in Indiana.

6 (b) The term does not include an occupational or professional  
7 license.

8 Sec. 6. As used in this chapter, "person" means an individual, a  
9 corporation, a limited liability company, a partnership, or another  
10 legal entity.

11 Sec. 7. As used in this chapter, "pilot program" means the  
12 employment verification pilot program administered by the United  
13 States Department of Homeland Security and the Social Security  
14 Administration, or the successor of that program.

15 Sec. 8. As used in this chapter, "unauthorized alien" has the  
16 meaning set forth in 8 U.S.C. 1324a(h)(3).

17 Sec. 9. A person shall not knowingly employ an unauthorized  
18 alien.

19 Sec. 10. (a) The attorney general shall investigate a complaint  
20 filed with the attorney general that an employer knowingly  
21 employed an unauthorized alien in violation of section 9 of this  
22 chapter.

23 (b) In investigating a complaint under subsection (a), the  
24 attorney general shall verify the work authorization of the alleged  
25 unauthorized alien with the federal government under 8 U.S.C.  
26 1373(c).

27 Sec. 11. A state, county, or local official or employee may not  
28 attempt to make independently a final determination as to whether  
29 an individual is authorized to work in the United States.

30 Sec. 12. If, after an investigation, the attorney general  
31 determines that an employer has knowingly employed an  
32 unauthorized alien, the attorney general shall notify the following  
33 of the unauthorized alien:

34 (1) United States Immigration and Customs Enforcement.

35 (2) Local law enforcement agencies.

36 (3) The prosecuting attorney in the county in which the  
37 unauthorized alien is employed.

38 Sec. 13. (a) If a prosecuting attorney receives notification from  
39 the attorney general under section 12 of this chapter of a  
40 determination that an employer has knowingly employed an  
41 unauthorized alien, the prosecuting attorney shall file an action  
42 against the employer for a violation of section 9 of this chapter.

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(b) A prosecuting attorney filing an action under subsection (a) may file only one (1) action against the employer relating to the employment of all unauthorized aliens employed by the employer at the time the prosecuting attorney files the action.

(c) A prosecuting attorney may file an additional action against an employer under this section for a second or subsequent violation of section 9 of this chapter only for violations allegedly committed by the employer after the employer receives notice that the prosecuting attorney has filed the initial action against the employer under this section.

Sec. 14. If a prosecuting attorney files an action under section 13 of this chapter, the court in which the action is filed shall hold a hearing and make a determination of the action on an expedited basis.

Sec. 15. (a) Except as provided in section 17 of this chapter, if a court determines that a person knowingly employed an unauthorized alien in violation of section 9 of this chapter, the following apply:

(1) The court shall do the following:

(A) Order the employer to terminate the employment of all unauthorized aliens employed by the employer.

(B) Place the employer on probation for a three (3) year period. During the probationary period, the employer shall file a quarterly report with the attorney general concerning each new individual the employer hires at the specific business location where the unauthorized alien worked.

(C) Order the employer to file a sworn affidavit signed by the employer with the prosecuting attorney within three (3) business days after the order is issued under clause (A).

The affidavit must include a statement that the employer:

(i) has terminated the employment of all unauthorized aliens; and

(ii) will not knowingly employ an unauthorized alien.

(2) The court, after considering the relevant factors listed in subsection (b), may order an agency to suspend, for not more than ten (10) business days, a license described in section 16(a) of this chapter that is held by the employer.

(b) The court shall consider the following factors, if applicable, in deciding whether to order an agency to suspend an employer's license under subsection (a)(2):

(1) The number of unauthorized aliens employed by the

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employer.

(2) Any prior misconduct by the employer.

(3) The degree of harm resulting from the violation.

(4) The extent to which the employer made good faith efforts to comply with any applicable requirements under this chapter.

(5) The duration of the violation.

(6) The role of the directors, officers, or agents of the employer in the violation.

(7) Any other factors the court considers relevant.

Sec. 16. (a) This section applies to all licenses held by an employer:

(1) that are necessary to operate the employer's business at the employer's business location where an unauthorized alien worked; or

(2) if a license is not necessary at the employer's business location described in subdivision (1), that are held by the employer for the employer's primary place of business.

(b) If an employer fails to file a sworn affidavit required under section 15(a)(1)(C) of this chapter with the prosecuting attorney within three (3) business days after the order requiring the filing of the affidavit is issued, the court shall order the appropriate agencies to suspend all licenses that are held by the employer. All licenses suspended under this subsection must remain suspended until the employer files a sworn affidavit described under section 15(a)(1)(C) of this chapter with the prosecuting attorney.

(c) If the employer subject to an order filed under subsection (b) files a sworn affidavit required under section 15(a)(1)(C) of this chapter, the court shall order the appropriate agencies to reinstate the employer's suspended licenses.

Sec. 17. If:

(1) a court determines that a person knowingly employed an unauthorized alien in a second or subsequent violation of section 9 of this chapter; and

(2) the violation referred to in subdivision (1) occurred during the employer's period of probation imposed under section 15(a)(1)(B) of this chapter;

the court shall order the appropriate agencies to permanently revoke all licenses held by the employer that are described in section 16(a) of this chapter.

Sec. 18. (a) If an agency receives an order from a court under section 15(a)(2) or 16(b) of this chapter, the agency shall

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1 immediately suspend the license or licenses described in section  
2 16(a) of this chapter that are held by the employer to which the  
3 order relates.

4 (b) If an agency receives an order from a court under section 17  
5 of this chapter, the agency shall immediately revoke the license or  
6 licenses described in section 16(a) of this chapter that are held by  
7 the employer to which the order relates.

8 Sec. 19. A court shall send copies of all orders issued under  
9 sections 15, 16, and 17 of this chapter to the attorney general.

10 Sec. 20. (a) In determining whether an individual is an  
11 unauthorized alien for purposes of this chapter, a court may  
12 consider only the federal government's verification or status  
13 information provided under 8 U.S.C. 1373(c).

14 (b) The federal government's verification or status information  
15 provided under 8 U.S.C. 1373(c) creates a rebuttable presumption  
16 of an individual's lawful status.

17 (c) The court may:

18 (1) take judicial notice of the federal government's  
19 verification or status information; and

20 (2) request the federal government to provide automated or  
21 testimonial verification under 8 U.S.C. 1373(c).

22 Sec. 21. There is a rebuttable presumption that an employer did  
23 not knowingly employ an unauthorized alien if the employer  
24 verified the employment authorization of an individual through the  
25 pilot program.

26 Sec. 22. An employer may establish as an affirmative defense  
27 against an alleged violation under section 9 of this chapter that the  
28 employer complied in good faith with the requirements of 8 U.S.C.  
29 1324a(b).

30 Sec. 23. The attorney general shall:

31 (1) maintain copies of court orders received under section 19  
32 of this chapter;

33 (2) make the court orders available on the attorney general's  
34 Internet web site; and

35 (3) establish and maintain a data base of the names and  
36 addresses of the employers that have a violation under this  
37 chapter.

38 Sec. 24. This chapter does not require an employer to take any  
39 action that the employer believes in good faith would violate  
40 federal law.

41 Sec. 25. After December 31, 2008, an employer shall verify the  
42 employment eligibility of each employee of the employer through

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the pilot program after hiring the employee.

**Sec. 26. A person who knowingly files a false or frivolous complaint with the attorney general under section 10 of this chapter commits a Class C misdemeanor.**

SECTION 6. IC 22-5-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter. 1.7. Public Contract for Services; Unauthorized Aliens**

**Sec. 1. As used in this chapter, "contractor" means a person that has or is attempting to enter into a public contract for services with a state agency or political subdivision.**

**Sec. 2. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.**

**Sec. 3. As used in this chapter, "political subdivision" has the meaning set forth in 36-1-2-13.**

**Sec. 4. As used in this chapter, "public contract for services" means any type of agreement between a state agency or a political subdivision and a contractor for the procurement of services.**

**Sec. 5. As used in this chapter, "state agency" has the meaning set forth in IC 4-6-3-1.**

**Sec. 6. As used in this chapter, "subcontractor" means a person that:**

- (1) is a party to a contract with a contractor; and
- (2) provides services for work the contractor is performing under a public contract for services.

**Sec. 7. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).**

**Sec. 8. A state agency or political subdivision may not enter into or renew a public contract for services with a contractor if the state agency or political subdivision knows that the contractor or a subcontractor of the contractor employs or contracts with an unauthorized alien.**

**Sec. 9. Before a state agency or political subdivision may enter into a public contract for services with a contractor, the contractor shall certify in a manner that does not violate federal law that the contractor, at the time of the certification, does not employ or contract with an unauthorized alien.**

**Sec. 10. (a) A contractor or a subcontractor may not employ or contract with an unauthorized alien.**

**(b) If a contractor violates this section, the state agency or political subdivision shall require the contractor to remedy the**

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1 violation not later than thirty (30) days after the date the state  
2 agency or political subdivision notifies the contractor of the  
3 violation.

4 Sec. 11. (a) Except as provided in subsection (b), if the  
5 contractor fails to remedy the violation within the thirty (30) day  
6 period provided under section 10(b) of this chapter, the state  
7 agency or political subdivision shall terminate the public contract  
8 for services with the contractor for breach of the public contract  
9 for services.

10 (b) If a contractor employs or contracts with an unauthorized  
11 alien but the state agency or political subdivision (whichever the  
12 contractor has a public contract for services with) determines that  
13 terminating the public contract for services under subsection (c)  
14 would be detrimental to the public interest or public property, the  
15 state agency or political subdivision may allow the public contract  
16 for services to remain in effect until the state agency or political  
17 subdivision procures a new contractor.

18 (c) If a state agency or political subdivision terminates a public  
19 contract for services under subsection (a), the contractor shall be  
20 liable to the state agency or political subdivision for actual  
21 damages.

22 Sec. 12. A contractor may file an action with a circuit or  
23 superior court having jurisdiction in the county to challenge:

24 (1) a notice of a violation to the contractor under section 10(b)  
25 of this chapter not later than twenty (20) days after the  
26 contractor receives the notice; or

27 (2) a termination of a public contract for services under  
28 section 11(a) of this chapter not later than twenty (20) days  
29 after the state agency or political subdivision terminates the  
30 public contract for services with the contractor.

31 Sec. 13. If a contractor uses a subcontractor, the subcontractor  
32 shall certify to the contractor in a manner that does not violate  
33 federal law that the subcontractor, at the time of certification, does  
34 not employ or contract with an unauthorized alien.

35 Sec. 14. A contractor shall maintain on file a certification of a  
36 subcontractor under section 13 of this chapter throughout the  
37 duration of the term of a contract with the subcontractor.

38 Sec. 15. (a) If a contractor determines that a subcontractor is in  
39 violation of this chapter, the contractor may terminate a contract  
40 with the subcontractor for the violation.

41 (b) A contract terminated under subsection (a) for a violation of  
42 this chapter by a subcontractor may not be considered a breach of

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contract by the contractor or the subcontractor.

(c) A subcontractor may file an action with a circuit or superior court having jurisdiction in the county to challenge a termination of a contract under subsection (a) not later than twenty (20) days after the contractor terminates the contract with the subcontractor.

SECTION 7. IC 35-44-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 5. Offenses Relating to Illegal Aliens**

**Sec. 1.** As used in this chapter, "alien" has the meaning set forth in 8 U.S.C. 1101(a).

**Sec. 2.** As used in this chapter, "federal immigration agency" means an agency of the federal government responsible for the determination of the immigration status of aliens present in the United States.

**Sec. 3.** Except as provided in section 5 of this chapter, a person who:

- (1) transports; or
- (2) moves;

an alien knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law commits transporting an illegal alien, a Class A misdemeanor.

**Sec. 4.** Except as provided in section 5 of this chapter, a person who:

- (1) conceals;
- (2) harbors; or
- (3) shields from detection;

an alien in any place, including a building or means of transportation, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law commits harboring an illegal alien, a Class A misdemeanor.

**Sec. 5. (a)** Except as provided under subsection (b), an offense under section 3 or 4 of this chapter is a Class D felony if the:

- (1) person has a prior unrelated conviction under section 3 or 4 of this chapter;
- (2) offense involved more than five (5) aliens; or
- (3) offense was committed for the purpose of commercial advantage or private financial gain.

**(b)** The offense is a Class C felony if the person has a prior

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1 unrelated conviction under this section.

2       **Sec. 6.** A determination by a federal immigration agency that an  
3 alien has come to, entered, or remained in the United States in  
4 violation of law creates a rebuttable presumption that the alien is  
5 in the United States in violation of law.

6       SECTION 8. [EFFECTIVE JULY 1, 2008] A prosecuting attorney  
7 may file an action against an employer under IC 22-5-1.5-13, as  
8 added by this act, only for a violation of IC 22-5-1.5-9, as added by  
9 this act, that occurs after December 31, 2008.

10       SECTION 9. [EFFECTIVE JULY 1, 2008] IC 35-44-5-3 and  
11 IC 35-44-5-4, both as added by this act, apply only to crimes  
12 committed after June 30, 2008.

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